

## **CITY OF KINGSTON ZONING BOARD OF APPEALS VARIANCE APPLICATION**

Application fees: Area - \$50.00  
Use - \$75.00

Date Received: \_\_\_\_\_  
Check #: \_\_\_\_\_

Application is hereby made from the strict application of the provisions of the Zoning Ordinance of the City of Kingston, New York. All of the following information must be furnished before your application can be processed. Only the information submitted by the applications deadline will be considered. Incomplete applications will be returned.

Address of Property: \_\_\_\_\_ Tax Map #: \_\_\_\_\_

Dimensions: Frontage \_\_\_\_\_ ft. Depth \_\_\_\_\_ ft. Square Footage: \_\_\_\_\_ sq. ft.

Zone: \_\_\_\_\_ Ward: \_\_\_\_\_

Applicant Name: First: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Applicant Address: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Applicant Telephone: (home): \_\_\_\_\_ (business): \_\_\_\_\_  
(cell): \_\_\_\_\_

Applicant's relationship to property:

Owner: \_\_\_\_\_ Contract Vendee: \_\_\_\_\_

Other: \_\_\_\_\_ Explain: \_\_\_\_\_

If the owner is someone other than the applicant, a letter indicating the owner's knowledge and approval to make the application for a use on his/her property should be attached.

Owners Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Owners Address: Street: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

### **FOR STAFF USE**

Application complete: \_\_\_\_\_

Meeting Date: \_\_\_\_\_

Documents Received \_\_\_\_\_

Application is made for a variation of Section \_\_\_\_\_ of the City of Kingston's  
Zoning Ordinance Brief Description of Project / Reason for the Requested Variance:

A site plan must accompany this application. It should be drawn to scale by a licensed engineer, landscape architect, or surveyor. This professional's name, address, and phone number in addition to his or her professional stamp should be on the site plan. In some instances staff may waive the requirement for a stamped drawing. However, the plan must include the name, address, and phone number of the person who drew it as that individual will be held responsible for its accuracy. The plan shall show the location of all existing and proposed buildings, including floor plans, parking areas with spaces individually drawn traffic access; open spaces; landscaping and screening; both existing and proposed, with specific names of plantings, topography, exterior lighting and any other pertinent information.

Owner's Signature: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

**PLEASE SEE ATTACHED GUIDELINES AS TO EVIDENCE WHICH YOU MUST PRESENT AT PUBLIC HEARING. ANY MAPS, PHOTOS, ETC. WHICH ARE MADE PART OF RECORD MUST BE PRESENTED AT PUBLIC HEARING. PLEASE NOTE DOCUMENTS WILL NOT BE RETURNED TO APPLICANT AND COPIES WILL NOT BE MADE AT HEARING.**

13 copies of the site plan must be provided with this application.

**REQUIRED DOCUMENTS CHECKLIST – DEPENDANT ON VARIANCE CRITERIA**

- Application, original plus 13 copies \_\_\_\_\_
- Application fee \_\_\_\_\_
- Survey showing dimensions of the property \_\_\_\_\_
- Site Plan \_\_\_\_\_
- Letter of denial \_\_\_\_\_
- Certificate of Occupancy \_\_\_\_\_
- Contract of Sale or lease if applicable \_\_\_\_\_
- Photographs \_\_\_\_\_
- Expert Qualifications \_\_\_\_\_
- Deed \_\_\_\_\_
- SEQR form \_\_\_\_\_

**IF YOU HAVE ANY FURTHER QUESTIONS PLEASE CALL THE BUILDING SAFETY DIVISION @ 845-331-1217.**

Dear Applicant:

According to the information you have provided to the City of Kingston Building Department, you need to request a Use / Area Variance for your property. The property is located in a \_\_\_\_\_ zone. Before completing your application we suggest you review the other materials in this packet.

Based on the type of Variance you are requesting, you are obligated to demonstrate that the property meets specific requirements. These requirements are listed on the attached sheet referring to Use Variance criteria and Area Variance criteria. You should address all of these items when completing your application and be ready to discuss them at the Public Hearing. Supply the information necessary to provide documentation.

If you are applying for a Use Variance, please pay special attention to the requirement to show that each and every use that is allowed in the zone would result in an Unnecessary Hardship.

We recommend that you review the portion of the Zoning Code for the Zone which applies to the property. We would advise that you address all of the uses in your application and be ready to discuss them at the Public Hearing and that you provide adequate documentation for your assertions.

Thank you,

City of Kingston  
Zoning Board of Appeals

## **USE VARIANCE CRITERIA**

**No such use variance shall be granted by a Board of Appeals without a showing by the applicant that the applicable Zoning regulations and restrictions have caused unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the Zoning regulations for the particular district where the property is located:**

- 1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;**
- 2. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;**
- 3. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and**
- 4. that the alleged hardship has not been self-created.**

**The Zoning Board of Appeals, in the granting of Use Variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.**

## **Area Variances**

**State statute authorizes a Zoning Board of Appeals to hear and decide upon application for Area Variances. An Area Variance is defined as the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable Zoning regulations. State statute sets forth the criteria to be applied when reviewing an application for an Area Variance.**

### **AREA VARIANCE CRITERIA**

**In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the Variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:**

- 1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance;**
- 2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an Area Variance;\**
- 3. whether the requested Area Variance is substantial;**
- 4. whether the proposed Variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and**
- 5. whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance.**

**The Zoning Board of Appeals, in the granting of Area Variances, shall grant the minimum Variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.**